

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CANTON DIVISION**

In re:

MICHAEL LEE SNYDER and
MELISSA RAE ANN SNYDER

Debtors.

IN PROCEEDINGS UNDER CHAPTER 7

Case No. 18-62088-rk

Chief Judge Russ Kendig

MOTION OF SUNSHINE HEIFERS, LLC
FOR RELIEF FROM THE AUTOMATIC
STAY AND ENTRY OF ORDER WAIVING
THE PROVISIONS OF FRBP 4001(a)(3)

Creditor, Sunshine Heifers, LLC (“Creditor” or “Sunshine Heifers”), by and through its counsel, requests that this Court lift the automatic stay pursuant to 11 U.S.C. § 362(d) and allow it to pursue its remedies, including continuing its Federal Court Lawsuit, against non-debtor Shirley Snyder, and states as follows:

1. On October 15, 2018, the Debtors, Michael Snyder and Melissa Snyder, filed for Chapter 7 bankruptcy relief. (Doc. 1).
2. Before the bankruptcy filing, Creditor filed an action against Michael Snyder d/b/a Mike Snyder Farms, Melissa Snyder, and Shirley Snyder (collectively referred to as the “Snyders”) in the Northern District of Ohio, Eastern Division, Case No. 18-cv-02120-JRA (the “Federal Court Lawsuit”). (**Exhibit A – Complaint**).
3. In the Federal Court Lawsuit, Creditor alleged claims against Mike Snyder for breach of a dairy cow lease and claims against Mike Snyder, Melissa Snyder, and Shirley Snyder for breach of the personal guarantee in the dairy cow leases.
4. Shortly after moving for default against the Snyders, Debtors filed for Chapter 7 relief.

5. After receiving notice of the bankruptcy court filing, the District Court administratively closed the case. (**Exhibit B**).

6. Once a bankruptcy is filed, 11 U.S.C. § 362(a)(1) operates as a stay applicable to all entities, of:

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title[.]

11 U.S.C. § 362(a)(1).

7. While the bankruptcy filing of the Debtors extends the automatic stay protections to the Debtors, it does not extend the automatic stay to non-debtors, such as Shirley Snyder. “It is universally acknowledged that an automatic stay of proceeding accorded by § 362 may not be invoked by entities such as sureties, guarantors, co-obligors, or others with a similar legal or factual nexus[.]” *Lynch v. Johns-Manville Sales Corp.*, 710 F.2d 1194, 1196 (6th Cir. 1983).

8. “The legislative history of § 362 discloses a congressional intent to stay proceedings against the debtor, and no other, to preserve the status quo of the estate in an effort to ultimately effect and implement, to the extent possible, a successful and equitable reorganization or liquidation.” *Id.* However, “[n]othing in the legislative history counsels that the automatic stay should be invoked in a manner which would advance the interests of some third party, such as the debtor’s co-defendants, rather than the debtor or its creditors.” *Id.* at 1197.

9. The allegations against Shirley Snyder in the Federal Court Lawsuit are for breach of a personal guarantee. The automatic stay does not extend to guarantors who are not debtors in the underlying bankruptcy case.
10. Because Shirley Snyder has not filed for bankruptcy, Sunshine Heifers respectfully requests an Order from this Court lifting the automatic stay and permitting it to continue its Federal Court Lawsuit against her.

WHEREFORE, Sunshine Heifers, LLC, prays that this Court issue an Order Terminating or Modifying the Stay and granting the following:

1. Relief from the stay so that Sunshine Heifers, LLC may continue its lawsuit against Shirley Snyder, obtain a judgment against her, and enforce its remedies against Shirley Snyder.
2. That the 14 day stay prescribed by Bankruptcy Rule 4001(a)(3) be waived.
3. For such other relief as the Court deems proper.

Respectfully submitted,

/s/ Anthony C. Sallah

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